



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
HANFORD/INL PROJECT OFFICE  
309 Bradley Boulevard, Suite 115  
Richland, Washington 99352

October 21, 2013

CERTIFIED MAIL / RETURN RECEIPT REQUESTED

Mr. Matthew S. McCormick, Manager  
U.S. Department of Energy  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

Re: Notice of Violations and Assessment of Stipulated Penalties for Violations of CERCLA Requirements of the Hanford Federal Facility Agreement and Consent Order Related to the Management of Asbestos Containing Material

Dear Mr. McCormick:

This letter notifies the U.S. Department of Energy of violations of the Comprehensive Environmental Response, Compensation, and Liability Act requirements established pursuant to the Hanford Federal Facility Agreement and Consent Order and of the assessment of stipulated penalties.

The U.S. Environmental Protection Agency conducted an asbestos NESHAP compliance inspection on August 7-8, 2012. The inspection included field inspections of 13 sites at Hanford where facilities had been demolished or where asbestos work was underway. A total of 22 samples were collected at 6 of the 13 sites. Of those samples, 19 tested positive for chrysotile asbestos. As a result of the inspection and an evaluation of compliance with applicable CERCLA requirements EPA is issuing the following notice of violations and assessment of stipulated penalties.

In addition to the violations identified below, it should be noted that in large part because of the manner in which demolition work was performed by the DOE contractor CH2M Hill Plateau Remediation Company, an additional 35 waste sites have been created where releases of asbestos to the soil have occurred or is suspected. These 35 sites will require investigation and possible remediation under CERCLA.

EPA has identified three violations for which we are assessing stipulated penalties in accordance with Article XX of the HFFACO. Under Article XX of the HFFACO, a stipulated penalty may be assessed in an amount up to \$5,000 for the first week (or part thereof), and up to \$10,000 for each additional week (or part thereof) for each failure to comply.

The violations for which we are assessing stipulated penalties are described below:

- 1) The tank and superstructure of the 1902-D Water Tower which contained asbestos were demolished and disposed of at the Environmental Restoration Disposal Facility without a

CERCLA decision document issued under CERCLA or EPA approval as required by the ERDF Record of Decision, as amended. Disposal of this waste occurred at ERDF from January 26 through February 1, 2010.

- 2) Thirty-four separately tracked waste loads of asbestos containing waste material from the 2723-W building were disposed of at ERDF from April 22, 2009 through May 12, 2009 without a decision document issued under CERCLA or EPA approval as required by the ERDF Record of Decision, as amended.
- 3) Asbestos containing waste material from the demolished 284-W building was unloaded at ERDF from June 9, 2011 through July 18, 2011 and from September 12, 2011 through September 27, 2011, using vehicles that were not marked to indicate an asbestos dust hazard as required by Section 4.3.1 of the "Environmental Restoration Disposal Facility Waste Acceptance Criteria" (WCH-191), which is part of the ERDF Operation Plan and a primary document. Section 4.3.1 of the Environmental Restoration Disposal Facility Waste Acceptance Criteria requires that asbestos containing materials be managed in accordance with 40 C.F.R. §§ 61.140 through 61.157. 40 C.F.R. § 61.150(c) requires that vehicles used to transport asbestos containing material during unloading be marked to indicate an asbestos dust hazard.

Based on the information available to the EPA, EPA is assessing stipulated penalties as follows. A penalty of \$5,000 is being assessed for Violation 1, disposal of asbestos containing waste at ERDF from January 26 through February 1, 2010 without a CERCLA decision document or EPA approval, in accordance with paragraph 72 of the HFFACO. The maximum penalty is being assessed for this violation.

A penalty of \$25,000 is being assessed for Violation 2, disposal of asbestos containing waste at ERDF from April 22, 2009 through May 12, 2009 without a CERCLA decision document or EPA approval. A penalty of \$5,000 is being assessed for the first week of violations, and a penalty of \$10,000 is being assessed for each of the two additional weeks (or part thereof) that the violation occurred, in accordance with paragraph 72 of the HFFACO. The maximum penalty is being assessed for this violation.

A penalty of \$85,000 is being assessed for Violation 3, failure to properly mark vehicles used in unloading asbestos containing waste material at ERDF from June 9, 2011 through July 18, 2011 and from September 12, 2011 through September 27, 2011, as required by the Environmental Restoration Disposal Facility Waste Acceptance Criteria" (WCH-191). A penalty of \$5,000 is being assessed for the first week of violations, and a penalty of \$10,000 is being assessed for each of the eight additional weeks (or part thereof) that the violation occurred, in accordance with paragraph 72 of the HFFACO. The maximum penalty is being assessed for this violation.

The total penalty being assessed for these violations is \$115,000. Under paragraph 73 of the HFFACO, DOE has 15 days upon receipt of this letter to invoke dispute resolution. DOE can invoke dispute resolution only on the question of whether the failure to comply did in fact occur. The amount of the penalty is not subject to dispute resolution.

If DOE does not invoke dispute resolution within 15 days of receipt of this letter, then DOE shall submit a check payable to the Hazardous Substances Superfund within 60 days of receipt of this letter, or such

other time agreed to by EPA in writing, for the full amount of the stipulated penalty assessed. The check must be sent to:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Office  
P.O. Box 979076  
St. Louis, MO 63197-9000

The letter transmitting the check should indicate that the check is for the Hanford Site and include site identification No. 10-97. A copy of the transmittal letter should be sent simultaneously to:

Dennis Faulk  
U.S. Environmental Protection Agency  
309 Bradley Boulevard, Suite 115  
Richland, Washington 99352

The EPA has also identified the following additional violations. Based on available information, stipulated penalties are not being assessed for these violations as part of this action:

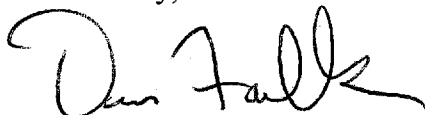
- 1) Failure to comply with Section 4.2.3.4 of the Removal Action Work Plan for 105-KE/105-KW Reactor Facilities and Ancillary facilities, Revision 1, in place at the time of demolition. Nonfriable asbestos was left in place during demolition of this facility without the required industrial hygienist or professional engineer certification at the 110-KW, 115-KE, 183.1-KW, 183.5-KW, 183.6-KW, 1706-KE, 1720-K, 181-K, 182-K, 183.1-KE, 183.5-KE, 183.6-KE, 190-KE, 190-KW, and 1908KE facilities.
- 2) Failure to comply with the Removal Action Work Plan for Central Plateau General Decommissioning Activities (DOE/RL-2010-33 Rev.0). At 272-E Fabrication Shop DOE failed to comply with the work plan requirement that NESHAP asbestos standard of no visible emissions from RACM or ACM be employed. Broken pieces of asbestos containing transite material were present following demolition of the 272-E Fabrication Shop.

A failure to comply with applicable HFFACO requirements could subject DOE to enforcement action, including the assessment of additional stipulated penalties. DOE needs to take action necessary to ensure compliance with HFFACO requirements, including ensuring that removal actions are conducted and completed in accordance with the approved work plan.

Notwithstanding this NOV or DOE's response, the EPA reserves the right to take any action pursuant to the HFFACO, CERCLA, or any other applicable legal authority including, without limitation, the right to seek injunctive relief, implementation of response actions or corrective measures, and the right to seek penalties for violations other than those specifically identified above.

If you have any questions on this matter, please contact Chris Guzzetti at 509-376-9529. Questions from legal counsel should be directed to Andrew Boyd, Office of Regional Counsel at 206-553-1222.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Faulk". The signature is fluid and cursive, with the first name "Dennis" written in a large, stylized "D" and the last name "Faulk" written in a more compact, cursive style.

Dennis Faulk, Program Manager  
Hanford Project Office

cc: Jane Hedges, Department of Ecology  
John Fulton, CHPRC  
Carol Johnson, WCH